

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
By: Joan D. Gelber
Deputy Attorney General
Tel. 973-648-2972

FILED

NOVEMBER 10, 2005

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
OAL Docket No. 00321-2004S

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF LICENSE OF
DENNIS M. SCARDIGLI, M.D.
LICENSE NO. MA033497
TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY :

ADMINISTRATIVE ACTION

FINAL ORDER

This matter was presented to the State Board of Medical Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, by way of Administrative Complaint filed October 20, 2003 against Dennis M. Scardigli, M.D., license number MA 33497. Dr. Scardigli has maintained professional offices in several locations including but not limited to 216 Haddon Ave., Suite 104, Westmont, New Jersey 08108.

The 6-Count Complaint alleged, in summary, that respondent had conducted inadequate clinical examinations and prepared inadequate records of his motor vehicle accident patients; and that he had submitted bills to third party payors containing inflated or otherwise improper CPT coding. It was also alleged that he had made medically unnecessary referrals of those patients to his wholly owned entity Psychophysiological Assessment and Treatment Center (referred to herein as PATC) for psychological testing and biofeedback, as well as performance of surface electromyograms.

It was further alleged that he had made medically unnecessary referrals of those patients to his wholly owned entity South Jersey Diagnostics (SJD). It was also alleged that, via the two

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corporate entities, he had submitted deceptive bills which omitted significant identifying information. In addition, it was alleged that he had failed to provide the specific disclosure notices required by law regarding the two entities in which he held a significant financial interest. Finally, it was alleged that he issued prescriptions for medications, including Controlled Drugs, which failed to contain the information required by Board rule and by rule of the federal Drug Enforcement Administration.

The conduct was alleged to constitute, variously, violations of N.J.S.A. 45:1-21(b),(c),(d),(e) and (h), and N.J.S.A. 45:9-22.6. Rule violations included N.J.A.C. 13:35-2.5(d) and (i) subsequently replaced by -2.6(a) and (c) ; -6.1(f); -6.5 ; -6.6(b) recodified as -7.2 ; -6.10(c) and (l) ; -6.11 ; -6.16(b)(8) and (e) ; -6.17(b), (c) and (h)3 ; and 6.19(b). Respondent is a second offender, having been previously reprimanded by Order of the Board filed October 12, 1989, rendering him liable to enhanced disciplinary action pursuant to N.J.S.A. 45:1-25.

An Answer to the Complaint was filed by Jason Lomax, Esq., wherein respondent denied all of the allegations in the complaint including but not limited to those set forth above. The matter was transmitted to the Office of Administrative Law. Hearings were conducted before the Hon. Jeff Masin, A.L.J., commencing July 6, 2005 and through August 2, 2005. Respondent is currently represented by Glenn A. Zeitz, Esq. Hearings were scheduled to re-commence on November 1, 2005.

Dr. Scardigli, having considered the matter and having had the opportunity to consult with his attorney, and being desirous to resolve this matter without recourse to further proceedings, hereby amends his prior Answer and neither admits nor denies the allegations of the Administrative Complaint. He has proposed certain settlement terms which the Board finds to be in the public interest as an adequate resolution of this matter. Therefore, for good cause shown,

IT IS, ON THIS *2nd* DAY OF *November* 2005

ORDERED:

1. Respondent's license shall be actively suspended for six months, followed by four and one-half years of probation. No credit for the active suspension period shall be given for any period of time during which Respondent engages in medical practice in any jurisdiction or state. The period of active suspension shall commence on December 9, 2005.

2. In the interim before active suspension, respondent shall accept no new patients. Respondent shall make immediate arrangements for the orderly transfer of current patients. He shall promptly notify all patients treated within the last six months regarding the availability for release or transfer of patient records pursuant to N.J.A.C. 13:35-6.5(h), and shall post newspaper and other notice as required by that rule.

3. On or before the effective date of the active suspension of license, respondent shall deliver to the Board his federal Drug Enforcement Administration registration and his State Controlled Drug Registration, and shall make prompt arrangements with said agencies for the lawful disposal of all Controlled Drugs in his possession or under his control, and shall arrange for the lawful disposal of all non-CDS medications. The Registrations shall be returned to him at the time he commences the probation period.

4. Respondent shall assure that all New Jersey office letterhead and all prescriptions pads bearing his name are removed from the office until the commencement of the probation period. He shall make safe and appropriate disposition of all medical equipment.

5. Respondent shall promptly initiate dissolution proceedings for the corporations Psychological Assessment and Treatment Center and South Jersey Diagnostics, sending proofs of the initiation and of the completion of dissolution to the Board.

6. Respondent is assessed costs including investigation, experts, attorney fees and transcripts, totaling \$135,000.00, and an aggregate civil penalty of \$30,000.00 for the offenses set forth in Counts 1 through 6, pursuant to N.J.S.A. 45:1-25, as amended.*

7. Payment of investigative costs of \$17,187.00 shall be made within 10 days of the entry of this Order. Payment of the penalty shall be made within 30 days of the entry of the Order. Payment of the remaining costs, as described above, shall be made within 90 days of the entry of the Order. Payments of all Board assessments shall be submitted by certified check or money order payable to State of New Jersey, at the Board office at P.O. Box 183, Trenton, NJ 08625-0183.

8. A Certificate of Debt shall be filed to protect the judgment pursuant to N.J.S.A. 45:1-24, and shall be promptly discharged upon payment in full.

*This Order does not require reimbursement to third party payors for claims submitted as set forth in the Administrative Complaint in light of the terms of the settlement.

9. With regard to any form or component of professional practice or services involving South Jersey Diagnostics or Psychophysiological Assessment and Treatment Center, alleged by respondent to have been performed by him or by or on behalf of any of his practice entities, for which he had not yet billed or which has been billed but unpaid as of this date, respondent shall forego any attempt to bill or to collect for such alleged services and shall withdraw all outstanding claims for payment for such alleged services.

10. Prior to the end of the active suspension period and before resuming any form of medical practice on probation, respondent shall appear, on notice, before a designated Committee of the Board of Medical Examiners to review his status and his readiness to comply with accepted standards of professional practice in all areas of concern alleged in the Administrative Complaint. Prior to such appearance, respondent shall submit to the Board proof of the following, which he will complete at his expense*:

(a) Report of an unconditional passing grade demonstrating satisfactory completion of a course in professional ethics approved in advance by the Board;

(b) Report of satisfactory completion of a course in medical recordkeeping and coding, approved in advance by the Board;

(c) Report of participation in, full attendance, and satisfactory completion of a Board-approved refresher course program in internal medicine.

11. Probation shall be explicitly conditioned upon respondent's compliance with the above terms and with the following terms and conditions:

(a) Respondent may conduct a medical practice in internal medicine. He shall cease and desist from the clinical practice of motor vehicle and personal injury "PIP" cases, and shall continue to so limit his practice. If he seeks to order physical therapy to be administered within his practice, such therapy shall be performed exclusively by New Jersey-licensed physical therapists. Except in

*The Board office maintains a list of acceptable remedial courses, including but not limited to PRIM-E (Professional Renewal in Medicine through Ethics, sponsored by UMDNJ-Robert Wood Johnson Medical School), and ProBE (Professional/Problem Based Ethics, provided by The Ethics Group, LLC). Board-approved intensive refresher courses in particular medical specialties are offered by the National Institutes of Health and by Harvard Medical School, or similar course approved by the Medical Education Director of the Board of Medical Examiners.

unusual circumstances documented in the patient chart, patients shall be moved steadily and at the earliest practicable time from passive modalities to active modalities of therapy. Any patient receiving any modalities of physical therapy for more than six months shall be referred to a New Jersey-licensed, board-certified physiatrist, having prior Medical Board approval, who is not affiliated in any way with respondent or any of his entities, for an independent consultation. The report of the consultant shall be made a part of the respondent's patient's chart. This provision shall continue beyond the probation period and until further order of the Board.

(b) Respondent may administer standard mental health status evaluation screening forms as part of his clinical examination, but shall not bill separately for such screening test. In the event that his own clinical evaluation or the computer-generated screening test profile suggests mental health problems not ascribable to typical transitory situational disturbance following acute injury, after personal discussion with the patient to obtain informed consent, he may refer the patient to a New Jersey licensed mental health practitioner not affiliated in any way with him or with any entity directly or indirectly controlled by respondent. The referral shall be preceded by a request setting forth the patient's pertinent history, completed testing and results, and the reason(s) supporting the requested evaluation, as required by N.J.A.C. 13:35-2.5. The report of the consultant shall be made a part of the respondent's patient's chart. This provision shall continue beyond the probation period and until further order of the Board.

(c) Respondent shall not bill for any of the following tests or treatments under these or any other names: "Autovertebral Evaluations", "Posture Evaluation" "Weight Distribution", "Plumb Line Analysis", "Pinch Grip", or computerized range-of-motion testing. This provision shall continue beyond the probation period.

(d) Respondent shall not bill for any form of evoked potentials, either for the technical or professional components. In the event that he deems a patient's neurological symptoms to warrant professional evaluation, he shall refer the patient to a board-certified neurologist or physiatrist who shall have been approved in advance by the Medical Board. The neurologist or physiatrist shall not be, presently or formerly, anyone who is or was affiliated in any way with respondent, including having previously been retained by respondent by contract to serve as "supervisor" or "consultant" for such testing on respondent's premises. The consultant shall not be affiliated in any way with any

entity directly or indirectly controlled by respondent. Except in a medical emergency, any such referral shall be preceded by a request meeting all the requirements set forth by N.J.A.C. 13:35-2.5. Respondent shall not perform or allow the performance of any form of electrodiagnostic testing to be performed in his office, nor shall he pay any other practitioner for interpreting electrodiagnostic studies performed by or for respondent. This provision shall continue beyond the probation period and until further order of the Board.*

(e) Respondent shall assure that initial examination notes and subsequent progress notes for an established patient, prepared by him or by any physician who may in future be employed in respondent's office, meet all criteria established by Board rule N.J.A.C. 13:35-6.5. Said documentation shall also meet all criteria for the billed CPT code as defined in the applicable Current Procedural Manual. Unless a patient has been referred to respondent by a prior or concurrent treating physician for a consultation, respondent shall bill his own services under the code for treating physician. Delegation of billing services to another person or billing management company shall not relieve respondent of the responsibility to assure truthful billing and coding. This provision shall continue beyond the probation period and until further order of the Board.

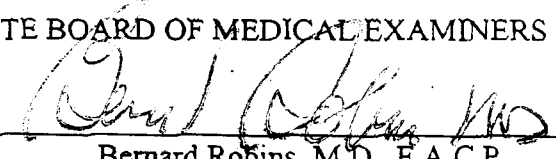
12. From time to time during the probation period, on notice, respondent shall submit a certified true copy of patient treatment and billing records, as selected by the Medical Director of the State Board of Medical Examiners, for inspection. Initially, five records per month shall be reviewed. The number and frequency of inspection shall diminish as the Medical Director finds appropriate. If the Medical Director, in his sole discretion, deems it appropriate to review a true and complete copy of the ongoing evaluation reports of a remedial program in which respondent is enrolled, respondent shall promptly authorize its release for the use of the Board.

13. The Disciplinary Directives and the Notice provisions attached hereto are incorporated herein. Respondent shall complete (for Board confidential file use alone) the Addendum enclosed with this Order.

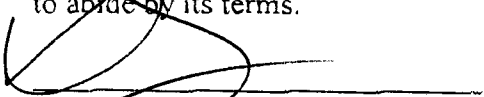
*The tests contemplated by this section include electromyography (EMG), surface electromyography (SEMG), nerve conduction velocity (NCV), electroencephalography (EEG), somatosensory evoked potentials (SSEP), brainstem auditory evoked potentials (BAEP or AEP), visual evoked potentials (VEP), brain electro-assessment mapping or encephalographic assessment (BEAM), electronystagmography (ENG).

14. It is intended by the parties that this Order shall resolve all administrative and license issues with Respondent, which were specifically alleged as violations by the Attorney General in the present Administrative Complaint, with regard to his responsibility to the State Board of Medical Examiners in connection with Professional Board law and rules. The Attorney General has no other actions pending or contemplated against respondent at the present time other than the allegations contained in this matter. The entry of this Order shall not limit the authority of any other person or agency to initiate any further action permitted by law, whether administrative, civil or criminal, in any court or other forum of competent jurisdiction in connection with any matters coming within that jurisdiction.

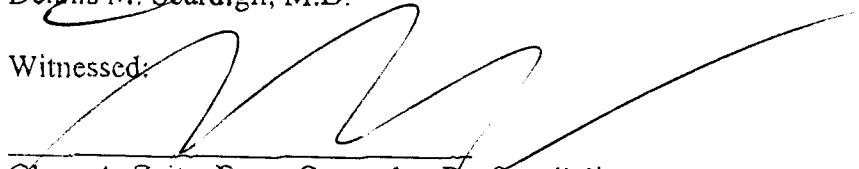
THIS ORDER IS EFFECTIVE UPON ENTRY, WITH THE SUSPENSION
PERIOD TO BE EFFECTIVE DECEMBER 9, 2005.

STATE BOARD OF MEDICAL EXAMINERS
By: 
Bernard Robins, M.D., F.A.C.P.
President

I have read and understand
the above Order and I agree
to abide by its terms.


Dennis M. Scardigli, M.D.

Witnessed:


Glenn A. Zeitz, Esq., Counsel to Dr. Scardigli